

## EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

**§ 2576. Surplus military equipment: sale to State and local law enforcement, firefighting, homeland security, and emergency management agencies**

(a) The Secretary of Defense, under regulations prescribed by him, may sell to State and local law enforcement, firefighting, homeland security, and emergency management agencies, at fair market value, pistols, revolvers, shotguns, rifles of a caliber not exceeding .30, ammunition for such firearms, gas masks, personal protective equipment, and other appropriate equipment which (1) are suitable for use by such agencies in carrying out law enforcement, firefighting, homeland security, and emergency management activities, and (2) have been determined to be surplus property under subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(b) Such surplus military equipment shall not be sold under the provisions of this section to a State or local law enforcement, firefighting, homeland security, or emergency management agency unless request therefor is made by such agency, in such form and manner as the Secretary of Defense shall prescribe, and such request, with respect to the type and amount of equipment so requested, is certified as being necessary and suitable for the operation of such agency by the Governor (or such State official as he may designate) of the State in which such agency is located. Equipment sold to a State or local law enforcement, firefighting, homeland security, or emergency management agency under this section shall not exceed, in quantity, the amount requested and certified for such agency and shall be for the exclusive use of such agency. Such equipment may not be sold, or otherwise transferred, by such agency to any individual or public or private organization or agency.

(Added Pub. L. 90-500, title IV, §403(a) Sept. 20, 1968, 82 Stat. 851; amended Pub. L. 96-513, title V, §511(85), Dec. 12, 1980, 94 Stat. 2927; Pub. L. 107-217, §3(b)(10), Aug. 21, 2002, 116 Stat. 1296; Pub. L. 111-350, §5(b)(42), Jan. 4, 2011, 124 Stat. 3846; Pub. L. 111-383, div. A, title X, §1072(a)-(c)(1), Jan. 7, 2011, 124 Stat. 4366.)

## AMENDMENTS

2011—Pub. L. 111-383, §1072(c)(1), substituted “Surplus military equipment: sale to State and local law enforcement, firefighting, homeland security, and emergency management agencies” for “Surplus military equipment: sale to State and local law enforcement and firefighting agencies” in section catchline.

Subsec. (a). Pub. L. 111-383, §1072(a)(1), (b), substituted “State and local law enforcement, firefighting, homeland security, and emergency management agencies” for “State and local law enforcement and firefighting agencies”, “personal protective equipment, and other appropriate equipment” for “and protective body armor”, and “in carrying out law enforcement, firefighting, homeland security, and emergency management activities” for “in carrying out law enforcement and firefighting activities”.

Pub. L. 111-350 substituted “division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41” for “title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)”.

Subsec. (b). Pub. L. 111-383, §1072(a)(2), substituted “State or local law enforcement, firefighting, homeland security, or emergency management agency” for “State or local law enforcement or firefighting agency” in two places.

2002—Subsec. (a). Pub. L. 107-217 inserted “subtitle I of title 40 and title III of” before “the Federal Property and Administrative Services Act of 1949” and substituted “(41 U.S.C. 251 et seq.)” for “(40 U.S.C. 471 et seq.)”.

1980—Subsec. (a). Pub. L. 96-513 substituted “under” for “pursuant to”, and “(40 U.S.C. 471 et seq.)” for “(68 Stat. 377), as amended”.

## EFFECTIVE DATE OF 1980 AMENDMENT

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**COMMERCIAL SALE OF SMALL ARMS AMMUNITION IN EXCESS OF MILITARY REQUIREMENTS**

Pub. L. 111-383, div. A, title III, §346, Jan. 7, 2011, 124 Stat. 4191, provided that:

“(a) **COMMERCIAL SALE OF SMALL ARMS AMMUNITION.**—Small arms ammunition and ammunition components in excess of military requirements, including fired cartridge cases, which are not otherwise prohibited from commercial sale or certified by the Secretary of Defense as unserviceable or unsafe, may not be demilitarized or destroyed and shall be made available for commercial sale.

“(b) **DEADLINE FOR GUIDANCE.**—Not later than 90 days after the date of the enactment of this Act [Jan. 7, 2011], the Secretary of Defense shall issue guidance to ensure compliance with subsection (a). Not later than 15 days after issuing such guidance, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a letter of compliance providing notice of such guidance.

“(c) **PREFERENCE.**—No small arms ammunition and ammunition components in excess of military requirements may be made available for commercial sale under this section before such ammunition and ammunition components are offered for transfer or purchase, as authorized by law, to another Federal department or agency or for sale to State and local law enforcement, firefighting, homeland security, and emergency management agencies pursuant to section 2576 of title 10, United States Code, as amended by this Act.”

**AUTHORITY TO SELL AIRCRAFT AND AIRCRAFT PARTS FOR USE IN RESPONDING TO OIL SPILLS**

Pub. L. 106-181, title VII, §740, Apr. 5, 2000, 114 Stat. 173, as amended by Pub. L. 107-296, title XVII, §1704(e)(6), Nov. 25, 2002, 116 Stat. 2315; Pub. L. 107-314, div. A, title X, §§1051, 1062(i), Dec. 2, 2002, 116 Stat. 2648, 2651, provided that:

“(a) **AUTHORITY.**—

“(1) **SALE OF AIRCRAFT AND AIRCRAFT PARTS.**—Notwithstanding subchapter II of chapter 5 of title 40, United States Code, and subject to subsections (b) and (c), the Secretary of Defense may sell aircraft and aircraft parts referred to in paragraph (2) to a person or entity that provides oil spill response services (including the application of oil dispersants by air) pursuant to an oil spill response plan that has been approved by the Secretary of the Department in which the Coast Guard is operating.

“(2) **AIRCRAFT AND AIRCRAFT PARTS THAT MAY BE SOLD.**—The aircraft and aircraft parts that may be sold under paragraph (1) are aircraft and aircraft parts of the Department of Defense that are determined by the Secretary of Defense to be—

“(A) excess to the needs of the Department; and  
 “(B) acceptable for commercial sale.

“(b) CONDITIONS OF SALE.—Aircraft and aircraft parts sold under subsection (a)—

“(1) shall have as their primary purpose usage for oil spill spotting, observation, and dispersant delivery and may not have any secondary purpose that would interfere with oil spill response efforts under an oil spill response plan; and

“(2) may not be flown outside of or removed from the United States except for the purpose of fulfilling an international agreement to assist in oil spill dispersing efforts, for immediate response efforts for an oil spill outside United States waters that has the potential to threaten United States waters, or for other purposes that are jointly approved by the Secretary of Defense and the Secretary of Homeland Security.

“(c) CERTIFICATION OF PERSONS AND ENTITIES.—The Secretary of Defense may sell aircraft and aircraft parts to a person or entity under subsection (a) only if the Secretary of Homeland Security certifies to the Secretary of Defense, in writing, before the sale, that the person or entity is capable of meeting the terms and conditions of a contract to deliver oil spill dispersants by air, and that the overall system to be employed by that person or entity for the delivery and application of oil spill dispersants has been sufficiently tested to ensure that the person or entity is capable of being included in an oil spill response plan that has been approved by the Secretary of the Department in which the Coast Guard is operating.

“(d) REGULATIONS.—

“(1) ISSUANCE.—As soon as practicable after the date of the enactment of this Act [Apr. 5, 2000], the Secretary of Defense, in consultation with the Secretary of Homeland Security and the Administrator of General Services, shall prescribe regulations relating to the sale of aircraft and aircraft parts under this section.

“(2) CONTENTS.—The regulations shall—

“(A) ensure that the sale of the aircraft and aircraft parts is made at a fair market value, as determined by the Secretary of Defense, and, to the extent practicable, on a competitive basis;

“(B) require a certification by the purchaser that the aircraft and aircraft parts will be used only in accordance with the conditions set forth in subsection (b);

“(C) establish appropriate means of verifying and enforcing the use of the aircraft and aircraft parts by the purchaser and other operators in accordance with the conditions set forth in subsection (b) or pursuant to subsection (e); and

“(D) ensure, to the maximum extent practicable, that the Secretary of Defense consults with the Administrator of General Services and with the heads of appropriate departments and agencies of the Federal Government regarding alternative requirements for such aircraft and aircraft parts before the sale of such aircraft and aircraft parts under this section.

“(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of Defense may require such other terms and conditions in connection with each sale of aircraft and aircraft parts under this section as the Secretary considers appropriate for such sale. Such terms and conditions shall meet the requirements of regulations prescribed under subsection (d).

“(f) REPORT.—Not later than March 31, 2006, the Secretary of Defense shall transmit to the Committees on Armed Services and Commerce, Science, and Transportation of the Senate and the Committees on National Security and Transportation and Infrastructure of the House of Representatives a report on the Secretary's exercise of authority under this section. The report shall set forth—

“(1) the number and types of aircraft sold under the authority, and the terms and conditions under which the aircraft were sold;

“(2) the persons or entities to which the aircraft were sold; and

“(3) an accounting of the current use of the aircraft sold.

“(g) STATUTORY CONSTRUCTION.—

“(1) AUTHORITY OF ADMINISTRATOR.—Nothing in this section may be construed as affecting the authority of the Administrator under any other provision of law.

“(2) CERTIFICATION REQUIREMENTS.—Nothing in this section may be construed to waive, with respect to an aircraft sold under the authority of this section, any requirement to obtain a certificate from the Administrator to operate the aircraft for any purpose (other than oil spill spotting, observation, and dispersant delivery) for which such a certificate is required.

“(h) PROCEEDS FROM SALE.—The net proceeds of any amounts received by the Secretary of Defense from the sale of aircraft and aircraft parts under this section shall be covered into the general fund of the Treasury as miscellaneous receipts.

“(i) EXPIRATION OF AUTHORITY.—The authority to sell aircraft and aircraft parts under this section expires on September 30, 2006.”

[For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

#### SALE OF AIRCRAFT FOR WILDFIRE SUPPRESSION PURPOSES

Pub. L. 104-307, Oct. 14, 1996, 110 Stat. 3811, as amended by Pub. L. 106-65, div. A, title X, §1067(23), Oct. 5, 1999, 113 Stat. 775; Pub. L. 106-398, §1 [[div. A], title III, §388], Oct. 30, 2000, 114 Stat. 1654, 1654A-89; Pub. L. 107-314, div. A, title X, §1062(k), Dec. 2, 2002, 116 Stat. 2651, known as the Wildfire Suppression and Aircraft Transfer Act of 1996, authorized the Secretary of Defense, during the period beginning on Oct. 1, 1996, and ending on Sept. 30, 2005, to sell the aircraft and aircraft parts that were determined by the Secretary to be excess to the needs of the Department of Defense and acceptable for commercial sale to persons or entities that contracted with the Federal Government for the delivery of fire retardant by air in order to suppress wildfire.

#### § 2576a. Excess personal property: sale or donation for law enforcement activities

(a) TRANSFER AUTHORIZED.—(1) Notwithstanding any other provision of law and subject to subsection (b), the Secretary of Defense may transfer to Federal and State agencies personal property of the Department of Defense, including small arms and ammunition, that the Secretary determines is—

(A) suitable for use by the agencies in law enforcement activities, including counter-drug and counter-terrorism activities; and

(B) excess to the needs of the Department of Defense.

(2) The Secretary shall carry out this section in consultation with the Attorney General and the Director of National Drug Control Policy.

(b) CONDITIONS FOR TRANSFER.—The Secretary of Defense may transfer personal property under this section only if—

(1) the property is drawn from existing stocks of the Department of Defense;

(2) the recipient accepts the property on an as-is, where-is basis;

(3) the transfer is made without the expenditure of any funds available to the Department